(Union of India Vs. Smt. Anand Kanwar & ors.)
S.B . CIVIL MISC. APPEAL NO.1408/2005

Date : 02.05.2007

HON'BLE MR. P.B.MAJMUDAR, J.

Mr. VK Mathur, for the appellant.
Mr. R.S.Gill, for the respondents.

Today, the matter has been listed for orders with an endorsement of (final disposal), and with the consent of learned counsel for the parties, the matter is taken up for final disposal and decided by this judgment.

By filing this appeal under Section 173 of the Motor Vehicles Act, 1988, the appellant Union of India has challenged the judgment and award passed by the Motor Accident Claims Tribunal, Sri Ganganagar, Camp Suratgarh in Civil Case No. 3/2001 by which the Tribunal has awarded Rs. 4,50,000/- in favour of claimant-respondents as compensation.

The claim petition has been filed by Smt. Anand Kanwar widow of deceased on her behalf as well as on behalf of her minor children for getting compensation in lieu of death of her husband who died in a motor accident. The husband of claimant was driving the motor-cycle and on 12.9.2000, military truck belonging to the appellant coming from wrong side hit the motor cycle. It is the case of claimant respondent No.1 that the deceased was taken to mlitary hospital but within one hour of admission in hospital, he died. A criminal complaint in this

regard was also filed on 12.9.2000. It is case of the claimant respondent that the accident had occurred in view of rash and negligent driving of the driver of the vehile of appellant. At the time of accident, the deceased was about 30 years of age and according to claimant he was earning Rs. 3,000/- per month. The claimant prayed for Rs. 8,68,000/- as compensation. The claim petition was resisted by appellant Union of India on the ground that the accident had not occurred in view of rash and negligent driving of the military truck but the motor cyclist was also contributory negligent in the said accident by way of his negligence. The Tribunal framed various issues and after recording evidence, ultimately came to the conclusion that the accident had occurred in view of rash and negligent driving of the driver of the military truck as it was found that the said driver was driving the truck in excessive speed. In coming to the said conclusion, the Tribunal has also considered the evidence of one Ratan Singh, who is brother of deceased and who alleged to have scene the occurrence and in his evidence, he has stated that the driver of the truck was driving the truck in rash and negligent manner. The Tribunal has also found that he was not seriously cross-examined on the point of negligence. Considering the evidence on record, the Tribunal found that the accident had occurred in view of rash and negligent driving by driver of the vehile in question.

I have heard the learned counsel for the appellant

and also gone through the reasoning given by the learned Tribunal as also the record and proceedings.

The learned counsel for the appellant is not in a position to point out any infirmity in the finding of fact recorded by the Tribunal about negligence by showing that the said finding is either contrary to record or based on no evidence. Regarding quantum also after considering the age of deceased, which is found to be between 25-30 years, the Tribunal has applied the multiplier of 18 and has assessed the income of deceased as Rs. 3,000/- per month and after deducting 1/3 towards personal expenditure, the Tribunal has awarded Rs. 4,50,000/- in all.

Considering the aforesaid aspect, in my view, the learned Tribunal has correctly applied the multiplier in arriving at such a figure. The learned counsel for the appellant is not in a position to point out any infirmity in the award passed by the Tribunal deciding the aforesaid aspect.

Accordingly, I do not find any substance in the appeal and hence the same is dismissed summarily.

The record be sent back forthwith.

(P.B.MAJMUDAR), J.

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